IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

MONDAY, THE 9TH APRIL 2007 / 19TH CHAITHRA 1929

WP(C).No. 7033 of 2006(K)

PETITIONER:

RABIA T.S.,
PATTARUPARAMBIL HOUSE, ELOOR NORTH,
UDYOGAMANDAL P.O.-683501, ERNAKULAM DISTRICT.

BY ADV. SRI.M.V.BOSE
SRI.VINOD MADHAVAN
SMT.NISHA BOSE

RESPONDENTS:
----

1. THE STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
LOCAL SELF GOVERNMENT DEPARTMENT, GOVT.SECRETARIAT
THIRUVANANTHAPURAM.

2. CHERTHALA MUNICIPALITY,
REPRESENTED BY ITS SECRETARY, CHERTHALA.

3. THE SECRETARY,
CHERTHALA MUNICIPALITY, CHERTHALA, ALAPPUZHA DIST.

***4. JAMEELA, D/O. SUHARA BEEVI,**
KOLLAM VELIYIL, WARD NO. 9,
MUHAMMED GRAMA PANCHAYATH,
P.O. MUHAMMA.

***ADDL. R4 IS IMPLEADED AS PER ORDER DATED 16121/2006.**

BY ADV. SRI.J.OM PRAKASH R2 & R3
GOVERNMENT PLEADER SRI. P.NANDAKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 09/04/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 7033/2006

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE DEATH CERTIFICATE DT. 25/09/2004.

EXT.P2. COPY OF THE LETTER ADDRESSED TO THE CHAIR PERSON SMT. ELYKUTTY JOHN FROM PETITIONER'S HUSBAND LATE SALIM.

EXT.P3. COPY OF THE LETTER TO SRI. G.N. NAIR FROM THE PETITIONER'S HUSBAND LATE SALIM.

EXT.P4. COPY OF THE DISSOLUTION OF MARRIAGE CERTIFICATE DT. 16/6/97, ISSUED BY SECRETARY, MASJIDATHUL MUHAMMADEEYA SANGOM, MUHAMMA.

EXT.P5. COPY OF THE SETTLEMENT DEED DT. 16/6/97.

EXT.P6. COPY OF THE MARRIGE CERTIFICATE DT. 5/10/2004.

EXT.P7. COPY OF THE SUCCESSION CERTIFICATE ISSUED BY THE TAHSILDAR, CHERTHALA.

EXT.P8. COPY OF THE APPLICATION BEFORE THE CHERTHALA MUNICIPALITY SECRETARY FROM THE PETITIONER DT. 25/6/2005.

EXT.P9. COPY OF THE APPLICATION FROM THE PETITIONER BEFORE THE CHERTHALA MUNICIPAL SECRETARY.

EXT.P10. COPY OF THE POSTAL RECEIPT.

EXT.P11. COPY OF THE CONSENT LETTER OF THE CHILDREN OF THE PETITIONER.

EXT.P12. COPY OF THE CONSENT LETTER OF SALIM'S MOTHER DT. 1/7/2005.

EXT.P13. COPY OF THE CONSENT LETTER OF THE FATHER OF THE LATE SALIM.

EXT.P14. COPY OF THE APPLICATION IN THE PRESCRIBED FORM BY THE PETITIONER.

EXT.P15. COPY OF THE GO P NO. 12/99/P & ARD DT. 24/5/99.

EXT.P16. COPY OF THE AGREEMENT DT.12/6/97.

EXT.P17. COPY OF THE POLICY OF SALARY SAVINGS SCHEME DT. 7/4/98 OF PETITIONER'S HUSBAND SALIM K.

EXT.P18. COPY OF THE CLAIMANT'S STATEMENT DT. 16/1/2005 OF RABIA T.S.

EXT.P19. COPY OF THE NOTICE DT. 17/11/2005 FROM THE MUNICIPAL OFFICE, TO THE PETITIONER.

EXT.P20. COPY OF THE REPLY DT. 3/12/2005 FROM THE PETITIONER TO SECRETARY, CHERTHALA MUNICIPALITY.

True copy

tga

THOTTATHIL B. RADHAKRISHNAN, J.

= =

WP(C).No. 7033 OF 2006-K

= =

Dated this the 9th day of April, 2007.

JUDGMENT

Petitioner is the widow of late Salim, who died on 13-9-2004 while working as a Sanitary Sweeper in Cherthala Municipality. It appears that Salim was earlier married and had two children. The objection raised by the Department to the benefit of compassionate employment being extended to the petitioner, is that she has not produced the consent letter of the divorced wife of late Salim, as also his children through his first wife.

2. Clause 14(a) of Ext.P15 G.O.(P)12/99/P&ARD dated 24-5-1999 provides that employment assistance shall be given to the "widow/widower, son, daughter in the said order of priority". Clause 14(b) provides that whenever there is a dispute between the claim of two dependents, the

person recommended by the widow/widower will be preferred. It is, therefore, abundantly clear that compassionate employment has to be provided to the widow/widower, in preference to others and even if the widow/widower is not taking up the appointment, the assistance shall be given to such person among the dependents whom the widow/widower chooses. Hence, there is no ground to refuse employment assistance to the petitioner as the dependent of late Salim.

In the result, this writ petition is allowed and it is directed that the application of the petitioner for compassionate appointment as sought for in Ext.P8 shall be taken up, if it is otherwise in order and orders issued extending employment assistance to her, at the earliest, if otherwise entitled to.

THOTTATHIL B. RADHAKRISHNAN,
JUDGE.

Sha/-